

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
U.S. MAGISTRATE JUDGE  
EL PASO DIVISION

UNITED STATES OF AMERICA           )  
vs.   )  
ELBA LUZ DOMINGUEZ-PORTILLO    ) No. EP:17-MJ-04409-MAT  
MAYNOR ALONSO CLAUDINO LOPEZ    )       EP:17-MJ-04456-MAT  
JOSE FRANCIS YANES-MANCIA        )       EP:17-MJ-04461-MAT  
NATIVIDAD ZAVALA-ZAVALA         )       EP:17-MJ-04462-MAT  
BLANCA NIEVE VASQUEZ-HERNANDEZ)       EP:17-MJ-04499-MAT  
-----

BENCH TRIAL and SENTENCING

Before the Honorable Miguel A. Torres

A P P E A R A N C E S:

-----  
FOR THE GOVERNMENT:  
MR. DOUGLAS RENNIE  
MS. NOEMI LOPEZ  
-----

Assistant United States Attorney  
700 E. San Antonio Avenue, Suite 200  
El Paso, Texas 79901

FOR DEFENDANT:  
MR. SERGIO GARCIA  
-----

700 E. San Antonio, Suite D-401  
El Paso, Texas 79901

Proceedings reported by stenotype. Transcript produced by  
computer-aided transcription.

1 THE COURT: Good afternoon, the Court calls the  
2 following case for trial, EP:17-M-4409, the United States  
3 versus Elba Luz Dominguez-Portillo.

4 May I have announcements, please.

5 MS. LOPEZ: Good afternoon, Noemi Lopez and  
6 Douglas Rennie for the United States.

7 THE COURT: Good afternoon.

8 MR. GARCIA: Good afternoon, Judge, Sergio Garcia on  
9 behalf of Ms. Dominguez-Portillo, ready to proceed, Judge.

10 THE COURT: Good afternoon. I guess a few  
11 housekeeping things before we proceed with trial.

12 Is there any other matters with regard to the motion to  
13 dismiss that the Defendant wishes to raise? We had a hearing  
14 last week, evidentiary hearing, and I announced at that time  
15 that I would be denying the motion, and obviously an order is  
16 pending on that, but is there anything else you want to raise,  
17 Mr. Garcia?

18 MR. GARCIA: Yes, Judge. Briefly, I would like, for  
19 the record, I would at this time like to renew our motion to  
20 dismiss based on oral arguments made in that motion and oral  
21 arguments made at the hearing on that motion.

22 THE COURT: Very well. I am denying the motion. I  
23 understand you are raising a number of non-issues of law, and  
24 obviously it is only fair to you and to the Government to get  
25 an order out as soon as possible. It is my goal to have an

1 order out next week, and I promised to be diligent and get that  
2 out as soon as possible.

3 Having said that, we also had set, and you can have a seat,  
4 Mr. Garcia, we had also -- I had issued an order yesterday  
5 morning regarding the Government's request for a  
6 Lafler-Frye Hearing regarding -- we discussed the matter  
7 before. There was a plea agreement that was offered by the  
8 Government to each of the Defendants, and the Government had  
9 made this request for a Lafler-Frye Hearing.

10 Is the Government persisting in that request or is it  
11 withdrawing that request at this time?

12 MS. LOPEZ: That's correct, Your Honor. The  
13 Government withdraws its request for the Lafler-Frye Hearing.

14 THE COURT: Very well.

15 Mr. Garcia, your client waived arraignment on these charges  
16 and is charged with illegal entry pursuant to 8 USC 1325. She  
17 waived arraignment in which the form indicates that she is  
18 entering a plea of not guilty.

19 Is your client persisting in that plea of not guilty, and  
20 are you entering a plea of not guilty at this time on behalf of  
21 Ms. Dominguez-Portillo?

22 MR. GARCIA: Yes, at this time we enter a plea of not  
23 guilty.

24 THE COURT: Okay, very well.

25 I'll ask you do you wish to have your client sitting at

1 counsel table? It is up to you.

2 MR. GARCIA: No, I think it would be better that way,  
3 Judge.

4 THE COURT: Fine with me. Very well.

5 Well, I guess -- anything else we need to take up at this  
6 time before we get into the trial, Ms. Lopez?

7 MS. LOPEZ: No, Your Honor.

8 THE COURT: Anything else, Mr. Garcia?

9 MR. GARCIA: No, Judge.

10 THE COURT: Do the parties waive opening?

11 MS. LOPEZ: Yes, Your Honor.

12 MR. GARCIA: We do, Judge.

13 THE COURT: Very well.

14 Let's go to the Government. Do you call any witnesses or  
15 have any evidence to present?

16 MS. LOPEZ: Your Honor, the parties have agreed to  
17 enter into stipulated facts, and we also present stipulated  
18 evidence in lieu of calling witnesses and presenting evidence.

19 THE COURT: Let's start off with the stipulation  
20 first. Is there a document that you have?

21 MS. LOPEZ: Yes, Your Honor.

22 THE COURT: I am noticing also the stipulation of  
23 facts contains or references a joint exhibit list and  
24 identifies each of the exhibits that you will be presenting  
25 also that are in the binder; is that correct?

1 MS. LOPEZ: That's correct, Your Honor.

2 THE COURT: Let me go to the Defense.

3 The stipulation of facts you have entered into an agreement  
4 of these facts, and you have explained all of this to your  
5 client?

6 MR. GARCIA: That is correct, Judge.

7 THE COURT: I will ask your client briefly --

8 MR. GARCIA: Ms. Dominguez.

9 THE COURT: She is fine right there, that's okay.

10 Ms. Dominguez-Portillo, I have a document here that is  
11 called a stipulation of facts. The document has your signature  
12 as well as the signature of your attorney and the signature of  
13 the lawyer for the Government. Basically, it is a brief  
14 summary of certain facts that the parties agree are not in  
15 dispute in this case.

16 Was all of this explained to you by your attorney before  
17 you signed it, ma'am?

18 DEFENDANT DOMINGUEZ: Yes.

19 THE COURT: Very well. So, I'll tell you what --  
20 well, the stipulation is admitted into the record. I will just  
21 call it Government A. I was thinking it is really not neither  
22 a Government or it is both Government and Defense evidence, but  
23 I will call it Government A since you are presenting it here.

24 Now, we have additional evidence; is that correct?

25 MS. LOPEZ: That's correct, Your Honor.

1 THE COURT: Chris, will you hold on to these, please,  
2 and keep them?

3 MS. LOPEZ: May I approach, Your Honor?

4 THE COURT: You may. Alright, and I have the  
5 Government has presented a binder with the case style on it.  
6 It has Exhibit A, B, C, D, E, F, G, and H.

7 You had the opportunity to review this, Mr. Garcia?

8 MR. GARCIA: Yes, Judge. Those are joint  
9 stipulations, yes, I did.

10 THE COURT: Again, for the record, the shorthand  
11 identification of what each of the exhibits represent is  
12 referenced to the stipulation that was just admitted by the  
13 Court and so there is no objection.

14 MR. GARCIA: No objection, Judge.

15 THE COURT: Exhibits -- Government's Exhibit -- I just  
16 called it stipulated Government's Exhibit A. These are marked  
17 by letters. I'll call it the stipulation, Government Exhibit  
18 No. 1, and I will admit Government's Exhibits A, B, C, D, E, F,  
19 G, and H for the record.

20 Very well, and is there any other evidence or any witnesses  
21 that the Government wishes to present?

22 MS. LOPEZ: No, Your Honor.

23 THE COURT: Does the Government rest at this time?

24 MS. LOPEZ: It does.

25 THE COURT: Does the Defense have a motion?

1 MR. GARCIA: Judge, may we approach for a second?

2 THE COURT: Yes, of course. The Government has  
3 rested. Yes, sir, go ahead.

4 MR. GARCIA: I just spoke to the Government, Judge,  
5 and they are going to proceed the way we agreed. She is going  
6 to present her argument.

7 THE COURT: Okay, go ahead.

8 MS. LOPEZ: Your Honor, the Government rests, and the  
9 Government has no further argument.

10 THE COURT: Very well.

11 Go ahead, Mr. Garcia.

12 MR. GARCIA: Judge, at this point, we move for a  
13 judgment of acquittal under Rule 29 based on the Government's  
14 failure to prove each and every element for the crime based on  
15 the entire record in this case, and we incorporate by reference  
16 all documents, evidence, transcripts, and orders in this case  
17 including, but not limited to, our motion to dismiss and  
18 argument made at the hearing on the motion to dismiss and also  
19 all the evidence presented at trial.

20 THE COURT: Very well.

21 Is there any response?

22 MR. RENNIE: Your Honor, we rely on our motion, the  
23 opposition, that we filed on November 20th.

24 THE COURT: Very well.

25 MR. RENNIE: The stipulated evidence presented.

1 THE COURT: Yes, sir. Your Rule 29 motion is denied.

2 Let me ask you, do you have any witnesses or evidence, sir?

3 MR. GARCIA: No, Judge. It is just a brief argument,  
4 and then I will rest.

5 THE COURT: Go ahead.

6 MR. GARCIA: Judge, my clients left their countries  
7 each with a minor child or grandchild escaping horrible  
8 violence in their Central American countries.

9 As we previously explained at the hearing in our motion to  
10 dismiss, key material witnesses, the children, are missing  
11 here. The parties stipulated exhibits support that claim.  
12 Information as to the whereabouts of these material witnesses  
13 was not provided anywhere in the discovery, and these witnesses  
14 under the Government's [inaudible] are exculpatory regarding  
15 the Defendants well founded fear for leaving their country and  
16 being forced to come here with no alternative to seek safety to  
17 avoid the harm.

18 The fact that these children, the key material witnesses,  
19 are missing is a violation of due process rights for a trial  
20 and of their right against defendants right against self  
21 incrimination. It forces the defendants to take the stand in  
22 order to establish their defense and so there is prejudice.  
23 One constitutional right should not have to be surrendered in  
24 order to assert another one.

25 As we have proven at every stage, Judge, in this Court, the



1 Government's conduct here is outrageous and in bad faith.

2 With that, we rest, and we would like to renew at this time  
3 a Rule 29 motion, judgment of acquittal under Rule 29 based on  
4 the Government's failure to prove each and every element of the  
5 crime based on the entire record in this case, and we  
6 incorporate by reference all documents, evidence, transcripts,  
7 and orders in this case including, but not limited to, our  
8 motion to dismiss, and arguments made at the hearing of the  
9 motion to dismiss, and also all the evidence and arguments  
10 presented at trial.

11 THE COURT: Thank you. And your Rule 29 motion is  
12 denied.

13 Does the Government close?

14 MR. RENNIE: Yes, Your Honor.

15 THE COURT: Very well.

16 Let me ask, and you're closing?

17 MR. GARCIA: We rest.

18 THE COURT: You rest and you close?

19 MR. GARCIA: We already closed.

20 THE COURT: Any closing argument?

21 MR. RENNIE: Yes. Your Honor, the stipulations and  
22 stipulated exhibits in these cases show the elements of the  
23 improper entry by an alien charge are satisfied in these cases.  
24 On the dates alleged in the indictments, which in these five  
25 cases were are October 21, 22, 23, each Defendant entered the

1 United States by crossing the Rio Grande River into  
2 El Paso, Texas at a place not designated as a port of entry by  
3 immigration officers. In some cases, they were close enough  
4 distance away to see the nearest port of entry where they could  
5 have presented themselves for inspection, but they didn't do  
6 that.

7 It also bears noting that despite the claims of outrageous  
8 conduct here, the Government played absolutely no role in the  
9 Defendants decision to enter where they did or their decisions  
10 to enter along with juveniles who they claim are their children  
11 or grandchildren.

12 The agents in these cases could have testified that, upon  
13 being apprehended, the Defendants admitted they were citizens  
14 of Honduras or El Salvador, which is what is reflected in the  
15 stipulations, and admitted readily they did not have permission  
16 to enter the United States legally. They would have also  
17 testified in each case that the Defendant was carrying a  
18 foreign identification card, what has been admitted into  
19 evidence, stated they were born in either El Salvador or  
20 Honduras which the Defendants have now stipulated to.  
21 Consequently, there is no real doubt that the elements of the  
22 offense are satisfied here.

23 The Defendants were aliens at the time that they entered  
24 the United States at a place that was not designated as a port  
25 of entry by immigration officers, and the only other thing the

1 Government needs to prove in these cases is that it took place  
2 here in the Western District of Texas. It is undisputed that  
3 is where they entered. So, they no longer dispute the facts  
4 establishing their guilt.

5 The only argument here is much of what we heard on the  
6 motion to dismiss, Your Honor. We also did hear a new  
7 argument, which I heard for the first time, something about the  
8 juveniles being potential material witnesses. I don't think  
9 that argument is properly preserved.

10 Now, as the Court knows, the Government views these issues  
11 as totally irrelevant to this trial, and we would object to any  
12 evidence or questioning regarding those issues. And in  
13 response to the arguments that Defense counsel makes, we rely  
14 on our opposition which we submitted on November 20th, and  
15 that's all Your Honor, thank you.

16 THE COURT: Thank you, Mr. Rennie.

17 Any arguments, Mr. Garcia?

18 MR. GARCIA: Briefly, Judge.

19 THE COURT: Yes, sir.

20 MR. GARCIA: Sorry, for the purposes of the record, we  
21 did make that argument about the key material witness at the  
22 hearing of the motion to dismiss, and that could be proven by  
23 the record of -- obviously, the transcript.

24 Just out of an abundance of caution, I would like to at  
25 this point, again, move for judgment of acquittal under Rule 29

1 based on the Government's failure to prove each and every  
2 element of the crime based on the entire record in this case,  
3 and we incorporate and reference all documents, evidence,  
4 transcripts, and orders in this case including, but not limited  
5 to, our motion to dismiss, and arguments made at the hearing on  
6 the motion to dismiss, and also all the evidence and arguments  
7 presented here at trial.

8 THE COURT: Thank you. That Rule 29 motion is denied.  
9 Anything else from either party at this time?

10 MS. LOPEZ: No, Your Honor.

11 MR. GARCIA: No, Judge, you heard it all.

12 THE COURT: Very well.

13 Based on the evidence that has been presented that was  
14 stipulated to in part and the exhibits that were presented that  
15 were not objected to, based on the evidence before the Court,  
16 the Court does find Ms. Dominguez-Portillo guilty of the charge  
17 of illegal entry into the United States. We will proceed to  
18 sentencing on that case this afternoon after the conclusion of  
19 the other matters.

20 Anything else? Any motion or anything else the Defendant  
21 wants to make at this time?

22 MR. GARCIA: No. One last thing, Judge. Again, I  
23 hate to sound repetitive. At this time, we move for the  
24 judgment of acquittal based on Rule 29 based on the  
25 Government's failure to prove each and every element of the

1 crime based on the entire record in this case, and we  
2 incorporate by reference all documents, evidence, transcripts,  
3 and orders in this case including, but not limited to, our  
4 motion to dismiss, and arguments made at the hearing on the  
5 motion to dismiss, and also all the evidence and arguments  
6 presented at trial.

7 THE COURT: Very well. That motion is denied.  
8 Anything else from the Government on this case?

9 MS. LOPEZ: No, Your Honor.

10 THE COURT: Very well. We are in recess on  
11 Ms. Dominguez-Portillo's case until we recall it for  
12 sentencing.

13 The Court calls EP:17-M-4456, the United States versus  
14 Maynor Alonso Claudino Lopez, and may I have announcements,  
15 please.

16 MS. LOPEZ: Noemi Lopez and Douglas Rennie for the  
17 United States.

18 MR. GARCIA: Good afternoon again, Judge,  
19 Sergio Garcia on behalf of Mr. Claudino Lopez ready to proceed.

20 THE COURT: Again, housekeeping matters as in the  
21 previous case. Anything that the parties wish to address with  
22 regard to the motion to dismiss that had been filed by the  
23 Defendant? The Court ruled it was denying the motion and order  
24 is forthcoming. Anything else you want to report on the  
25 record?

1 MR. GARCIA: Yes. Just for procedure at this time, we  
2 would like to renew our motion to dismiss based on oral  
3 arguments made at that motion and oral arguments made at the  
4 hearing on that motion.

5 THE COURT: Very well. I guess you are asking for  
6 reconsideration of that ruling?

7 MR. GARCIA: Just renew the motion to dismiss.

8 THE COURT: That's denied.

9 Anything else the Government wants to say with regard to  
10 that?

11 MS. LOPEZ: No, Your Honor.

12 THE COURT: Is the Government moving to withdraw its  
13 request for a Lafler-Frye Hearing regarding a previously  
14 disclosed plea agreement in this case?

15 MS. LOPEZ: The Government so moves, Your Honor.

16 THE COURT: Very well, that's granted.

17 Again, Mr. Garcia, your client had previously waived  
18 arraignment in this case. Before waiving arraignment -- the  
19 form waiving arraignment indicates they are entering a plea of  
20 not guilty to the charge at that time. Is your client  
21 persisting in his plea of not guilty today, and are you  
22 entering a plea of not guilty on behalf of your client?

23 MR. GARCIA: Yes, he is entering a plea of not guilty,  
24 Judge.

25 THE COURT: Very well. The parties waive opening?

1 MS. LOPEZ: Yes, Your Honor.

2 MR. GARCIA: Yes, Judge.

3 THE COURT: Very well. Then let me ask the  
4 Government, do you have any witnesses or evidence?

5 MS. LOPEZ: We would offer stipulated facts that the  
6 parties have entered into as well as stipulated exhibits.

7 THE COURT: Let's start off with the stipulation then.  
8 Can you approach with that?

9 MS. LOPEZ: Yes.

10 THE COURT: I will note for the record that the  
11 stipulation -- I want to make sure about this. The paternal  
12 last name is Claudino? It is not a middle name or anything?

13 MR. GARCIA: It is Claudino last name and Lopez,  
14 Maynor Alonso Claudino Lopez.

15 THE COURT: I will refer to him as Mr. Claudino. I  
16 will note that the stipulation incorporates my reference to the  
17 joint exhibit list we will get to in a few minutes. The  
18 stipulation has the signatures of the attorneys, and it also  
19 has your signature, Mr. Claudino. It has your signature as  
20 well. This stipulation of facts, as I am sure your lawyer has  
21 explained, is an agreement between the parties -- between  
22 yourself and the Government outlining the facts that are not in  
23 dispute in this case, facts the parties agree on. Your  
24 signature here indicates that you understand this.

25 My question to you is did your lawyer explain all of this

1 to you before you signed this document?

2 DEFENDANT CLAUDINO: I really didn't understand  
3 everything that he tried to tell me since everything is in  
4 English. I really did not understand.

5 THE COURT: Here is what I want to get to. Did your  
6 attorney explain to you in the Spanish language that the  
7 parties are agreeing to this set of facts in this case?

8 DEFENDANT CLAUDINO: Yes.

9 THE COURT: Very well. Anything else you wanted to  
10 add?

11 MR. GARCIA: No, Judge.

12 THE COURT: Very well. We'll let this stipulation of  
13 facts as admitted. I will call it Government's Exhibit 1, and  
14 that's entered into the record.

15 Is there anything or -- we have these exhibits the  
16 Government wanted to present; is that correct?

17 MS. LOPEZ: Yes, Your Honor, the Government would  
18 present a book of stipulated exhibits.

19 THE COURT: Okay, go ahead.

20 MS. LOPEZ: May I approach?

21 THE COURT: Please. Mr. Garcia, you reviewed these  
22 exhibits?

23 MR. GARCIA: Yes, Judge.

24 THE COURT: Do you have any objections to any of the  
25 exhibits?



1 MR. GARCIA: No, Judge.

2 THE COURT: So the record is perfectly clear on this,  
3 it is Exhibits A through J it looks like, and there being no  
4 objection again, the stipulation of facts references these  
5 exhibits. It also details what each exhibit is and gives us a  
6 brief description of what they are. Government's Exhibits A  
7 through J are admitted.

8 Anything else from the Government?

9 MS. LOPEZ: Nothing further from the Government,  
10 Your Honor.

11 THE COURT: The Government rests on this?

12 MS. LOPEZ: The Government rests with no further  
13 arguments.

14 THE COURT: Very well.

15 Mr. Garcia?

16 MR. GARCIA: Judge, thank you.

17 At this time, we move for judgment of acquittal under  
18 Rule 29 based on the Government's failure to prove each and  
19 every element of the crime based on the entire record in this  
20 case, and we incorporate by reference all documents, evidence,  
21 transcripts, and orders in this case including, but not limited  
22 to, our motion to dismiss, and arguments made at the hearing on  
23 the motion to dismiss, and also all the evidence presented at  
24 trial.

25 THE COURT: The Rule 29 motion is denied.

1 Any witnesses or evidence, Mr. Garcia?

2 MR. GARCIA: No, Judge.

3 THE COURT: Do you rest?

4 MR. GARCIA: Yes. Before we do so, we would like to  
5 incorporate all the previous arguments we just made for  
6 purposes of trial with respect to Ms. Dominguez,  
7 Case No. 17-MJ-4409.

8 THE COURT: You are incorporating your arguments you  
9 made in the previous case?

10 MR. GARCIA: Yes.

11 THE COURT: Very well. Alright --

12 MR. GARCIA: Judge, and before I am done, I would like  
13 to again for purposes of the record move for judgment of  
14 acquittal under Rule 29 based on the Government's failure to  
15 prove each and every element of the crime based on the entire  
16 record in this case, and we incorporate by reference all  
17 documents, evidence, transcripts, and orders in this case  
18 including, but not limited to, our motion to dismiss, and  
19 arguments made at the hearing on the motion to dismiss, and  
20 also all the evidence and arguments presented at trial.

21 THE COURT: Your motion is denied, and does the  
22 Government close at this time?

23 MR. RENNIE: Yes, Your Honor, briefly.

24 Your Honor, we would just submit that the stipulations and  
25 stipulated exhibits in this case clearly establish that the

1 Defendant is guilty of the improper entry charge. We would  
2 rely on our written opposition to the motion to dismiss which  
3 was submitted on November 20th in response to any arguments  
4 regarding that motion, Your Honor, and as stated in the prior  
5 case, we think the evidence clearly establishes guilt in this  
6 case. Thank you.

7 THE COURT: Thank you.

8 Mr. Garcia?

9 MR. GARCIA: Judge, just for procedure, at this time,  
10 again, we move for judgment of acquittal under Rule 29 based on  
11 the Government's failure to prove each and every element of the  
12 crime based on the entire record in this case, and we  
13 incorporate by reference all documents, evidence, transcripts,  
14 and orders in this case including, but not limited to, our  
15 motion to dismiss, and arguments made at the hearing on the  
16 motion to dismiss, and also all the evidence and arguments  
17 presented at trial.

18 THE COURT: Very well. Those are closing arguments  
19 from the parties?

20 MR. GARCIA: You heard it all.

21 THE COURT: Very well. May I have just a moment here?  
22 Wait, sorry, did you just re-urge your motion?

23 MR. GARCIA: That's correct.

24 THE COURT: For the record, it is denied.

25 Anything else from the Government?

1 MS. LOPEZ: No, Your Honor.

2 THE COURT: Very well. Then based on the evidence  
3 before it, the stipulated facts, the exhibits before the Court  
4 that the Court does find Mr. Claudino Lopez guilty of illegal  
5 entry into the United States. We will proceed with the  
6 sentencing hearing this afternoon after the conclusion of the  
7 remaining trials.

8 Anything else on Mr. Claudino Lopez's case?

9 MS. LOPEZ: No, Your Honor, not from the Government.

10 MR. GARCIA: No, Judge.

11 THE COURT: We will move on to our next case,  
12 EP:17-M-4461, the United States of America versus  
13 Jose Francis Yanes-Mancia.

14 May I have announcements, please.

15 MS. LOPEZ: Good afternoon, Your Honor, Noemi Lopez  
16 and Douglas Rennie for the United States.

17 MR. GARCIA: Good afternoon, Judge, Sergio Garcia on  
18 behalf of Jose Francis Yanes-Mancia, ready to proceed, Judge.

19 THE COURT: Housekeeping matters. Is the Government  
20 withdrawing its request for a Lafler-Frye Hearing in this case?

21 MS. LOPEZ: Your Honor, before we begin, if I could  
22 request that we do Natividad Zavala-Zavala at the same time?  
23 The facts are exactly the same and so is the stipulated facts  
24 and evidence. Would it be possible to do those two cases  
25 together? They were arrested together.

1           THE COURT: I understand. Ordinarily, I really don't  
2 have an issue with it. Since we are making a trial record that  
3 is going to go up, we would be asking to essentially  
4 consolidate the trials.

5           Here is what I am going to do. I appreciate what you're  
6 trying to do, and, believe me, I would be inclined to do it. I  
7 think the record will be cleaner if we do them individually. I  
8 know it will take another little bit of time. I think each  
9 individual record if up on appeal these are not consolidated or  
10 whatever, I think it will be -- I think the record will just be  
11 cleaner. I will deny that request, but we will just go ahead  
12 and proceed on -- anything you wanted to add with regard to  
13 that?

14           MR. GARCIA: [inaudible] object.

15           THE COURT: The other thing was there anything else we  
16 wanted to take up on the motion to dismiss you previously filed  
17 that I previously ruled on, denying? Anything else?

18           MR. GARCIA: Yes, Judge. Just for the record, at this  
19 time, I would like to renew our motion to dismiss based on the  
20 oral arguments made in that motion and oral arguments made at  
21 the hearing on the motion.

22           THE COURT: That is denied. Your motion to dismiss is  
23 denied once again.

24           MS. LOPEZ: The Government would move to withdraw its  
25 request for a Lafler-Frye Hearing.

1           THE COURT: We had not finalized that. Thank you for  
2 reminding me about that.

3           Again, the Defendant has waived arraignment and the form  
4 indicates -- form waiving arraignment indicates that your  
5 client is entering a plea of not guilty, and are you entering a  
6 plea of not guilty on behalf of your client here today?

7           MR. GARCIA: Yes, Judge, she enters a plea of not  
8 guilty.

9           THE COURT: Very well. I think the parties are  
10 waiving opening, and so we will go right into evidence. What  
11 does the evidence have to present?

12           MS. LOPEZ: Your Honor, the Government would present  
13 stipulated facts.

14           THE COURT: Go ahead and approach with that  
15 stipulation.

16           A few things about the stipulation of facts. I am reviewing  
17 it. It does contain and is signed by the Defendant, signed by  
18 counsel for the Government, and counsel for the Defendant. It  
19 also references the joint -- the exhibit list or the exhibits  
20 rather that will be presented here now in a few minutes. Let  
21 me ask Mr. Yanes.

22           Good afternoon, I have this document that is a stipulation  
23 of facts. What this is is yourself and the Government have  
24 agreed to certain facts in this case that are not in dispute.  
25 In other words, the parties are agreeing as to these facts in

1 this case.

2 Did your lawyer explain all of this before you signed it?

3 DEFENDANT YANES: I did not understand it very well  
4 because I don't know what that signature was for if it is to  
5 plead guilty.

6 THE COURT: What I am explaining to you is this is an  
7 agreement as to certain facts. The Court is considering  
8 whether you are guilty, whether you're not guilty in this case.  
9 These are facts that are not in dispute. The parties, the  
10 Government and yourself, according to this are agreeing that  
11 these facts are not in dispute. It does contain your  
12 signature. I want to make sure did you understand all of this  
13 when you signed this.

14 Did your lawyer explain all of this?

15 DEFENDANT YANES: Yes, I did understand everything.  
16 We did sign it, yes.

17 THE COURT: Anything else you wanted to add as to  
18 this, Mr. Garcia?

19 MR. GARCIA: No, Judge. Just for the record, we  
20 reviewed this document at length last night and also this  
21 morning.

22 THE COURT: Very well. The Court will accept this  
23 stipulation. If this was a jury trial, obviously we would be  
24 reading this publishing it to the jury, but it is accepted. I  
25 will call it Government's Exhibit 1. We have some additional

1 exhibits; is that correct?

2 MS. LOPEZ: Yes, Your Honor. The Government would  
3 present certain exhibits that are listed in the stipulated  
4 facts. May I approach?

5 THE COURT: Please. I have been handed a notebook,  
6 binder, that has Exhibits A through J. You have reviewed this,  
7 Mr. Garcia?

8 MR. GARCIA: Yes, Judge.

9 THE COURT: Did you have any objection?

10 MR. GARCIA: No, Judge.

11 THE COURT: You're moving to admit these exhibits?

12 MS. LOPEZ: Yes, Your Honor.

13 THE COURT: Exhibits A through J are admitted into the  
14 record. Very well.

15 Does the Government have any additional evidence?

16 MS. LOPEZ: No, Your Honor, the Government rests with  
17 no further argument.

18 THE COURT: Very well. Mr. Garcia?

19 MR. GARCIA: Thank you, Judge.

20 Judge, at this point we move for judgment of acquittal  
21 under Rule 29 based on the Government's failure to prove each  
22 and every element of the crime based on the entire record in  
23 this case, and we incorporate by reference all documents,  
24 evidence, transcripts, and orders in this case including, but  
25 not limited to, our motion to dismiss, and arguments made at



1 the hearing on the motion to dismiss, and also all the evidence  
2 presented at trial.

3 THE COURT: Your Rule 29 motion is denied, and did you  
4 have any witnesses or evidence you wish to present?

5 MR. GARCIA: No, Judge.

6 THE COURT: Did you have any --

7 MR. GARCIA: Yes. I do need to incorporate by  
8 reference all the arguments that we presented here at trial  
9 with respect to Ms. Dominguez-Portillo since the Defendants are  
10 similarly situated.

11 At the same time, at this point, we again move for judgment  
12 of acquittal under Rule 29 based on the Government's failure to  
13 prove each and every element of the crime based on the entire  
14 record in this case, and we incorporate by reference all  
15 documents, evidence, transcripts, and orders in this case  
16 including, but not limited to, our motion to dismiss, and  
17 arguments made at the hearing on the motion to dismiss, and  
18 also all the evidence and arguments presented here for purposes  
19 of trial.

20 THE COURT: Your Rule 29 motion is denied.  
21 Anything else from the Government?

22 MS. LOPEZ: No, Your Honor.

23 THE COURT: The Government closes.  
24 Anything else from you, Mr. Garcia?

25 MR. GARCIA: No, Judge.

1 THE COURT: The Defense closes.

2 Let me hear closing arguments whatever you want to put on  
3 the record. Mr. Rennie?

4 MR. RENNIE: Briefly, Your Honor.

5 THE COURT: Yes, sir, of course.

6 MR. RENNIE: Your Honor, as more fully stated in  
7 closing for Ms. Dominguez's case, we believe the stipulations  
8 and stipulated exhibits clearly establish that the elements  
9 needed for the improper entry charge are satisfied here. In  
10 response to the arguments related to the motion to dismiss  
11 filed by the Defense, we would incorporate our opposition filed  
12 and submitted on November 20th. Thank you.

13 THE COURT: Thank you. Mr. Garcia?

14 MR. GARCIA: Thank you, Judge.

15 Just, again, please if I could just move for judgment of  
16 acquittal under Rule 29 base on the Government's failure to  
17 prove each and every element of the crime based on the entire  
18 record in this case, and we incorporate by reference all  
19 documents, evidence, transcripts, and orders in this case  
20 including, but not limited to, our motion to dismiss, and  
21 arguments made at the hearing on the motion to dismiss, and  
22 also all the evidence and arguments presented here for purposes  
23 of trial.

24 THE COURT: Very well. You just re-urge your Rule 29  
25 motion. That's denied.

1 Anything else from either of the parties?

2 MS. LOPEZ: No, Your Honor.

3 MR. GARCIA: No, Judge, you heard it all.

4 THE COURT: Very well.

5 As to Mr. Yanes-Mancia, based on the evidence I reviewed  
6 and the stipulations based on the evidence and the exhibits,  
7 the Court does find that Mr. Yanes-Mancia is guilty of illegal  
8 entry into the United States. We will move on to sentencing  
9 this afternoon at the conclusion of the remaining trials.

10 We will move on to the next case and -- let me ask you  
11 briefly, Ms. Lopez, you had indicated earlier that the Yanes  
12 case was related or similar facts, I guess, with the entry that  
13 occurred as the case of Ms. Vasquez?

14 MS. LOPEZ: Ms. Zavala.

15 THE COURT: Ms. Zavala?

16 MS. LOPEZ: Yes.

17 THE COURT: Very well. We will move on to that case.  
18 The Court calls EP:17-M-4462, the United States of America  
19 versus Natividad Zavala-Zavala.

20 MS. LOPEZ: Noemi Lopez and Douglas Rennie for the  
21 United States.

22 MR. GARCIA: And Sergio Garcia on behalf of  
23 Natividad Zavala-Zavala, ready to proceed, Judge.

24 THE COURT: Some housekeeping matters, Mr. Garcia.  
25 You previously filed a motion to dismiss. The Court had issued

1 a ruling denying your motion to dismiss. Anything else you  
2 wanted to add?

3 MR. GARCIA: Yes, Judge. At this time, again, we  
4 would like to renew our motion to dismiss based on oral  
5 arguments made in that motion and oral arguments made at that  
6 hearing on that motion.

7 THE COURT: Thank you very much. That is denied.

8 We have a pending Lafler-Frye Hearing. Does the Government  
9 withdraw that request?

10 MS. LOPEZ: The Government does, Your Honor.

11 THE COURT: Very well. Again, as to your client's  
12 plea, Mr. Garcia, your client had previously waived  
13 arraignment. The waiver contains a statement she is entering a  
14 plea of not guilty. Are you entering a plea of not guilty  
15 today on behalf of your client?

16 MR. GARCIA: Yes, Judge. She enters a plea of not  
17 guilty.

18 THE COURT: Let's go into it. The parties are waiving  
19 opening statements; is that correct?

20 MS. LOPEZ: That's correct.

21 MR. GARCIA: That's correct, Your Honor.

22 THE COURT: Very well. Let me ask the Government,  
23 what witnesses or evidence do you wish to present?

24 MS. LOPEZ: Your Honor, in lieu of witnesses or  
25 physical evidence, we do have an agreed stipulation of facts.

1 THE COURT: Let me go ahead and see that.

2 MS. LOPEZ: May I approach?

3 THE COURT: Of course. Alright, so let me note that  
4 this stipulation of facts references the exhibits that we'll be  
5 getting to in a few minutes.

6 Ms. Zavala?

7 DEFENDANT ZAVALA: Yes.

8 THE COURT: Good afternoon. I wanted to go over this  
9 stipulation of facts with you. This document that I am holding  
10 has your signature. This stipulation of facts has your  
11 signature, and it also has the signature of your attorney and  
12 has the signature of the lawyer for the Government. What this  
13 stipulation of facts indicates is that the parties are agreeing  
14 that there are certain facts in this case that are not in  
15 dispute. So, the parties are agreeing for purposes of this  
16 trial that there is an agreement on these facts. You signed  
17 this document.

18 Was all of this explained to you by your lawyer before you  
19 signed it, Ms. Zavala?

20 DEFENDANT ZAVALA: Yes.

21 THE COURT: Very well. Then we'll call this  
22 stipulation of facts in Ms. Zavala-Zavala's case  
23 Government's Exhibit 1.

24 What additional evidence did you have?

25 MS. LOPEZ: Your Honor, the Government would tender

1 exhibits listed in the stipulated facts. May I approach?

2 THE COURT: You may. Again, just so the record is  
3 clear on this, the stipulation of facts, Government's  
4 Exhibit 1, references and describes each of these exhibits that  
5 run Exhibits A all the way through Exhibit J. You have  
6 reviewed these exhibits?

7 MR. GARCIA: Yes, Judge.

8 THE COURT: No objections, Mr. Garcia?

9 MR. GARCIA: No objections.

10 THE COURT: Very well. You are moving to admit,  
11 Ms. Lopez?

12 MS. LOPEZ: Yes, Your Honor.

13 THE COURT: The Government's Exhibits A through J are  
14 admitted.

15 Alright, anything else from the Government in terms of  
16 evidence?

17 MS. LOPEZ: No, Your Honor, the Government rests with  
18 no further argument.

19 THE COURT: Very well. Mr. Garcia?

20 MR. GARCIA: Thank you, Judge.

21 Judge, at this point, we move for judgment of acquittal  
22 under Rule 29 based on the Government's failure to prove each  
23 and every element of the crime based on the entire record in  
24 this case, and we incorporate by reference all documents,  
25 evidence, transcripts, and orders in this case including, but

1 not limited to, our motion to dismiss, and arguments made at  
2 that hearing on the motion to dismiss, and also all the  
3 evidence presented and arguments here at trial.

4 THE COURT: Your Rule 29 motion is denied. Did you  
5 have anything else; any witnesses or evidence?

6 MR. GARCIA: No additional witnesses or evidence,  
7 Judge. We incorporate and by reference the arguments we made  
8 with respect to Ms. Dominguez-Portillo, case number 17-MJ-4409,  
9 since Ms. Zavala is also similarly situated.

10 THE COURT: Very well.

11 MR. GARCIA: With that, we also move again for  
12 judgment of acquittal under Rule 29 based on the Government's  
13 failure to prove each and every element of the crime based on  
14 the entire record in this case, and we incorporate by reference  
15 all documents, evidence, transcripts, and orders in this case  
16 including, but not limited to, our motion to dismiss, and  
17 arguments made at that hearing on the motion to dismiss, and  
18 also all the evidence and arguments presented here for purposes  
19 of trial.

20 THE COURT: That's denied. Anything else from the  
21 Government?

22 MR. RENNIE: You're not asking for closing?

23 THE COURT: Not closing argument yet?

24 MR. RENNIE: No.

25 THE COURT: The Government closes? Does the Defense

1 close?

2 MR. GARCIA: You heard it all, Judge.

3 THE COURT: Very well. Go ahead and put your closing  
4 argument on the record. Mr. Rennie?

5 MR. RENNIE: Thank you, Your Honor.

6 As more fully stated in Ms. Dominguez's case, it is  
7 EP:17-MJ-4409, the Government believes the stipulations and  
8 stipulated exhibits clearly establish that the elements of the  
9 improper entry charge are established. In response to the  
10 arguments related to the Defendant's motion to dismiss, we  
11 incorporate our written opposition which we submitted on  
12 November 20th.

13 Thank you, Your Honor.

14 THE COURT: Thank you.

15 Mr. Garcia?

16 MR. GARCIA: Thank you, Judge.

17 At this point, we, again, move for judgment of acquittal  
18 under Rule 29 based on the Government's failure to prove each  
19 and every element of the crime based on the entire record in  
20 this case, and we incorporate by reference all documents,  
21 evidence, transcripts, and orders in this case including, but  
22 not limited to, our motion to dismiss, and arguments made at  
23 that hearing on the motion to dismiss, and also all the  
24 evidence and arguments presented here for purposes of trial.

25 THE COURT: Did you just re-urge your Rule 29 motion?



1 MR. GARCIA: Yes.

2 THE COURT: That's denied. Anything else from the  
3 parties?

4 MS. LOPEZ: No, Your Honor.

5 THE COURT: Anything else?

6 MR. GARCIA: No, Judge, you heard it all.

7 THE COURT: Based on the stipulated facts that have  
8 been presented, based on the exhibits that the Government has  
9 presented, and the evidence before the Court, the Court finds  
10 Ms. Zavala guilty of the misdemeanor offense of illegal entry  
11 into the United States. We'll go into sentencing here in a few  
12 minutes after the conclusion of the last trial.

13 We will move on to EP:17-M-4499. I will backup. On  
14 Ms. Zavala-Zavala's case, anything else from either of the  
15 parties?

16 MS. LOPEZ: No, Your Honor.

17 MR. GARCIA: No, Judge.

18 THE COURT: Then I call EP:17-M-4499, the  
19 United States of America versus Blanca Nieve Vasquez-Hernandez.  
20 Announcements, please.

21 MS. LOPEZ: Noemi Lopez and Douglas Rennie for the  
22 United States.

23 MR. GARCIA: And Sergio Garcia on behalf of my client  
24 Ms. Vasquez-Hernandez, ready to proceed, Judge.

25 THE COURT: Let me take up some housekeeping issues.

1 Let me start with the Government. We had a pending  
2 Lafler-Frye Hearing set here this afternoon. Is the Government  
3 withdrawing that request?

4 MS. LOPEZ: The Government withdraws its request.

5 THE COURT: Very well. Was there anything that we  
6 needed to take up from the Defendant at this time?

7 MR. GARCIA: Yes, Judge, thanks.

8 THE COURT: Yes, sir.

9 MR. GARCIA: Judge, at this time, we would like to  
10 renew our motion to dismiss based on the oral arguments made in  
11 that motion and oral arguments made at that hearing on that  
12 motion to dismiss, Judge.

13 THE COURT: Very well. That is denied, and let me ask  
14 you, we had previously entered a plea of not guilty on the --  
15 when they waived -- when your client waived arraignment, the  
16 form includes language indicating that your client was  
17 persisting in a plea of not guilty. Are you entering a plea of  
18 not guilty on behalf of Ms. Vasquez-Hernandez at this time?

19 MR. GARCIA: Yes, Judge, we are entering a plea of not  
20 guilty.

21 THE COURT: Very well. Then the parties are waiving  
22 opening statements?

23 MS. LOPEZ: Yes, Your Honor.

24 MR. GARCIA: Yes, Judge.

25 THE COURT: Let me hear from the Government. What

1 witnesses or evidence do you wish to present?

2 MS. LOPEZ: Your Honor, the Government would tender a  
3 stipulation of facts that the parties have entered into. May I  
4 approach?

5 THE COURT: Yes. Okay, so I will note that the  
6 stipulation of facts does contain a reference to a joint  
7 exhibit list that we'll discuss in a few minutes.

8 Ms. Vasquez, good afternoon. I have before me this  
9 document of stipulated facts. Let me -- I need to ask you a  
10 few questions about it. It contains your signature and the  
11 signature of the attorneys in the case. What this document is  
12 is an agreement of undisputed facts or facts that the parties  
13 agree are undisputed.

14 My question to you is was all of this explained to you by  
15 your attorney before you signed this stipulation?

16 DEFENDANT VASQUEZ: Yes.

17 THE COURT: Very well. Then we will enter the  
18 stipulation of facts in the record, and it is admitted as  
19 Government's Exhibit 1.

20 Now, did we have additional evidence?

21 MS. LOPEZ: Yes, Your Honor. The Government would  
22 move to admit the exhibits that are set forth in the stipulated  
23 facts.

24 May I approach?

25 THE COURT: You may. Alright, and, Mr. Garcia, you

1 reviewed these exhibits?

2 MR. GARCIA: Yes, Judge.

3 THE COURT: Did you have any objections to any of the  
4 exhibits?

5 MR. GARCIA: No, Judge.

6 THE COURT: It looks like Government's Exhibits A  
7 through I is the last exhibit. It is Exhibits A through I,  
8 and, Ms. Lopez, you are moving to admit Government's A through  
9 I?

10 MS. LOPEZ: Yes, Your Honor.

11 THE COURT: Then these exhibits are admitted. Chris,  
12 here you go. Thank you.

13 Anything else in terms of evidence from the Government?

14 MS. LOPEZ: The Government rests with no further  
15 argument.

16 THE COURT: Very well. Mr. Garcia?

17 MR. GARCIA: Thank you, Judge.

18 At this point, we move for judgment of acquittal under  
19 Rule 29 based on the Government's failure to prove each and  
20 every element of the crime based on the entire record in this  
21 case, and we incorporate by reference all the documents,  
22 evidence, transcripts, and orders in this case including, but  
23 not limited to, our motion to dismiss, and arguments made at  
24 that hearing in the motion to dismiss, and also all the  
25 evidence presented here at trial.

1 THE COURT: Your Rule 29 motion is denied.

2 Anything else? Any witnesses or evidence or anything else  
3 you wanted to present at this time, Mr. Garcia?

4 MR. GARCIA: No, Judge. What we like to do is  
5 incorporate by reference all the arguments that we made here at  
6 trial with respect to Ms. Dominguez-Portillo, Case No.  
7 17-MJ-4409, and at this point we would like to move, again, for  
8 judgment of acquittal under Rule 29 based on the Government's  
9 failure to prove each and every element of the crime based on  
10 the entire record in this case, and we incorporate by reference  
11 all documents, evidence, transcripts, and orders in this case  
12 including, but not limited to, our motion to dismiss, and  
13 arguments made at the hearing on the motion to dismiss, and  
14 also all the evidence and arguments presented here for purposes  
15 of trial.

16 THE COURT: That motion is denied. Your Rule 29  
17 motion is denied.

18 You rest; is that correct?

19 MR. GARCIA: You heard it all, Judge.

20 THE COURT: Anything else from the Government?

21 MS. LOPEZ: Nothing further.

22 THE COURT: You close?

23 MS. LOPEZ: Yes.

24 THE COURT: Anything else, Mr. Garcia? You close  
25 also?

1 MR. GARCIA: Yes, Judge.

2 THE COURT: Mr. Rennie, let me go ahead and hear  
3 closing arguments from the Government, please.

4 MR. RENNIE: Thank you, Your Honor.

5 As previously stated more fully in Ms. Dominguez's case,  
6 EP:17-MJ-4409, the Government submits that the stipulations and  
7 stipulated exhibits in this case shows that the elements of the  
8 improper entry charge are plainly satisfied.

9 In response to the Defense's arguments concerning their  
10 motion to dismiss, we incorporate by reference a written  
11 opposition that was submitted on November 20th.

12 Thank you, Your Honor.

13 THE COURT: Thank you.

14 Mr. Garcia?

15 MR. GARCIA: Judge, at this point, again, we move for  
16 a judgment of acquittal under Rule 29 based on the Government's  
17 failure to prove each and every element of the crime based on  
18 the entire record in this case, and we incorporate by reference  
19 all documents, evidence, transcripts, and orders in this case  
20 including, but not limited to, our motion to dismiss, and  
21 arguments made at the hearing on the motion to dismiss, and  
22 also all the evidence and arguments presented here for purposes  
23 of trial.

24 THE COURT: Thank you very much. Just re-urge your  
25 motion, and the motion is denied.

1 Anything else from the parties at this time?

2 MS. LOPEZ: No, Your Honor.

3 THE COURT: Anything else?

4 MR. GARCIA: No, Judge, you heard it all.

5 THE COURT: Very well.

6 The Court having considered the stipulation of facts and  
7 considered the evidence it has been presented here does find  
8 Ms. Vasquez-Hernandez guilty of the misdemeanor offense of  
9 illegal entry.

10 That concludes our trials, and I think we can move right  
11 into sentencing unless -- are you ready to proceed on  
12 sentencing?

13 MR. GARCIA: Judge, if I can have just one minute?  
14 Are we going to call them in the same order?

15 THE COURT: Here is what I was thinking of, calling up  
16 the Defendants to the podium or here in the well of the Court,  
17 and then just addressing each individually or asking them if  
18 they have anything to say.

19 MR. GARCIA: I prefer that you give them a minute to  
20 allocute, each one.

21 THE COURT: Absolutely, I'll do that. In terms of  
22 should we bring up the Defendants one at a time, is that your  
23 preference?

24 MR. GARCIA: I prefer that.

25 THE COURT: Absolutely, fine. You need a couple of

1 minutes?

2 MR. GARCIA: Just a couple of minutes to visit with  
3 them.

4 THE COURT: I will take a very, very brief recess.  
5 Let Ms. Velez know when you're ready.

6 MR. GARCIA: Thank you.

7 [Recess taken]

8 THE COURT: We are on the record.

9 The Court calls EP:17-M-4409, The United States of America  
10 versus Elba Luz Dominguez-Portillo; EP:17-M-4456, the  
11 United States of America versus Maynor Alonso Claudino Lopez;  
12 EP:17-M-4461, the United States versus  
13 Jose Francis Yanes-Mancia; EP:17-M-4462, the United States  
14 versus Natividad Zavala-Zavala; and, finally, EP:17-M-4499, the  
15 United States versus Blanca Nieve Vasquez-Hernandez. We are  
16 here for sentencings.

17 May I have announcements, please.

18 MR. RENNIE: Good afternoon, Your Honor,  
19 Douglas Rennie and Noemi Lopez for the United States. We are  
20 ready to proceed.

21 THE COURT: Thank you.

22 MR. GARCIA: Good afternoon, Judge, Sergio Garcia on  
23 behalf of all of my clients.

24 THE COURT: Very well. Let me address the Defendants.

25 We have now gone through the part of the case where we made



1 a determination as to guilt or innocence. Obviously, I found  
2 each one of you guilty on the charge of illegal entry. We are  
3 in the sentencing part of the case at this hearing.

4 What I will do is I will ask the attorneys to speak. After  
5 that, you have the right to say something on your own behalf if  
6 you wish. Don't feel obligated to say anything if you don't  
7 want to. You don't have to say anything if you don't want to.  
8 It is your right to say something if you wish. I am happy to  
9 listen to whatever you have to say.

10 Let me start off with the attorneys and let me ask the  
11 Government, is the Government making any motions as to  
12 remitting the special assessment?

13 MR. RENNIE: Yes, Your Honor, we do move to remit the  
14 special assessment in each case. We would like to be heard at  
15 some point.

16 THE COURT: Of course.

17 MR. RENNIE: If you would like me to speak now or --

18 THE COURT: Let's just handle this first. I'll go  
19 with the Defendants first. Then I will ask if the Government  
20 has anything it wishes to bring up.

21 So, the special assessment of \$10 for each Defendant is  
22 remitted, and, Mr. Garcia, the floor is yours, sir.

23 MR. GARCIA: Thank you, Judge.

24 Just briefly. You heard it all, Judge. I will not argue  
25 the case of Ms. Dominguez-Portillo here at the bench trial at

1 trial 17-MJ-4409. You heard all that I think is important to  
2 hear from the people who actually suffer in these types of  
3 cases. I am going to request that you allow them to take a  
4 minute or two to allocute individually.

5 THE COURT: Of course, that's fine.

6 Let me go to the Government briefly just to get the lawyers  
7 out of the way for a moment, and then we can go to the  
8 Defendants.

9 Mr. Rennie, let me hear from you.

10 MR. RENNIE: Yes, Your Honor.

11 I just did want to mention that the Government did expend  
12 significant resources in this case since we did have about a  
13 dozen agents here prepared to testify today. Given that there  
14 was relatively short notice setting the trials, we did have  
15 witnesses who had to change their schedules and travel plans.  
16 Some are here on a day they were supposed to have off.

17 THE COURT: Right.

18 MR. RENNIE: Ms. Lopez and myself did want to thank  
19 them for being here today as well as the case agents and  
20 support staff.

21 THE COURT: Yes, sir.

22 MR. RENNIE: [Inaudible] to actually put on the  
23 evidence in these cases so quickly.

24 Nonetheless, we also recognize that by agreeing to relevant  
25 facts establishing the guilt, they did save the Government and

1 the agents from having to put on those cases, and we also  
2 recognize that the cases could have continued into next week as  
3 well, and we also note that other individuals in their position  
4 who are apprehended around that time most of them were  
5 sentenced to time served probably about a month ago.

6 It has been our position which we communicated to Defense  
7 counsel as of November 9th that a time served sentence was  
8 appropriate so, given that, we continue to recommend a sentence  
9 of time served.

10 THE COURT: I appreciate it, thank you. Okay, let me  
11 go now to you all.

12 Ms. Dominguez-Portillo, before I impose sentence, is there  
13 anything you would like to tell the Court?

14 DEFENDANT DOMINGUEZ: Yes, Your Honor.

15 When I arrived here, I had my daughter with me, and up to  
16 this day today, I know nothing of her. I came here fleeing  
17 from the Maras, and I ask I want to go back with my daughter as  
18 soon as possible. That's all.

19 THE COURT: Thank you, ma'am.

20 Mr. Claudino Lopez, before I impose sentence, is there  
21 anything you would like to say, sir?

22 DEFENDANT CLAUDINO: Well, I came into the country,  
23 and I gave myself up to the officers of immigration, and I only  
24 came here to see if I could have a better life for my son. It  
25 was not possible. The only thing that I want now is to go back

1 to my country with my son as soon as possible.

2 I do have more. I want to thank the immigration officer  
3 because they treated me very well. I know that they are all  
4 here present this afternoon, and with me they all behaved very  
5 well, and I thank them again, and I apologize to them.

6 THE COURT: Thank you very much, sir.

7 Mr. Yanes, before I impose sentence, is there anything you  
8 would like to tell the Court, sir?

9 DEFENDANT YANES: Yes. I am in the same situation as  
10 they are, and I do want to apologize for what we did for coming  
11 into this country illegally. I am in the same situation as  
12 they are, and I do want to apologize for coming in the way we  
13 did. I was coming with my son to give him a better opportunity  
14 and to be able to study, and I wanted to work here, you know,  
15 to be able to support him, but I was not able to, and I  
16 apologize for being here and for everything we have done. I  
17 think we are all paying for this offense which we have  
18 committed.

19 Likewise, I have been very well treated by everybody here,  
20 and I do apologize for having come in the way that I did. I do  
21 apologize. I do want to know about the whereabouts of my son.  
22 I want to know if he is okay, and I want to take him back to my  
23 country of Honduras.

24 Thank you.

25 THE COURT: Thank you, Mr. Yanes.

1 Ms. Zavala, before I impose sentence --

2 DEFENDANT ZAVALA: Your Honor, I fled the violence in  
3 my country. I fled the danger and the violence. I came here  
4 with my grandson. I need to be with my grandson. He was taken  
5 from me. I don't know where he is. Your Honor, I need to go  
6 with my grandson. I need to go back. I need to know where he  
7 is. He was taken from me. I know nothing of him. I need to  
8 know where my grandson is. It is all I ask, to be with my  
9 grandson and to go back with my grandson. I know nothing about  
10 him.

11 THE COURT: Thank you, Ms. Zavala.

12 Before I impose sentence Ms. Vasquez-Hernandez, is there  
13 anything you would like to tell the Court?

14 DEFENDANT VASQUEZ: Good afternoon, Your Honor.

15 What I would ask is I came over here with my son. I know  
16 nothing of him. He was taken from me. I was told that he was  
17 going to be taken. I came here fleeing the danger in my  
18 country. My husband was killed. As I was telling you, my  
19 husband was killed.

20 I came here seeking a better life. I'm a single mother,  
21 and I was fleeing the dangers and the violence in my country.  
22 I only want to raise my son to see him grow up where there are  
23 no Maras, no gangs. I am now a widow without a husband. I  
24 lost everything. Please help me. I don't know where my son  
25 is. From the moment he was taken from me, I don't know

1 anything about him.

2 Likewise, when I gave myself in to immigration, they took  
3 my son away from me. They cuffed him. He is a 13 year-old  
4 little boy. He was cuffed and taken away. I worry about him.  
5 I don't know how he is treated if he is being well treated.  
6 All I ask -- I don't know where he is and he needs me. I need  
7 to go and be where he is.

8 THE COURT: Thank you very much, Ms. Vasquez.

9 Alright --

10 MR. GARCIA: Judge?

11 THE COURT: Yes, sir.

12 MR. GARCIA: If I could -- my heart tells me to say a  
13 few words just briefly, maybe 30 seconds, Judge.

14 THE COURT: Go right ahead.

15 MR. GARCIA: As you heard the Government say, they  
16 spent resources and they made an offer back earlier, but, as  
17 you can see, the concern of my clients is simply their  
18 children. That is the most precious thing they had, and that  
19 is their concern.

20 It is not a time served issue. It is where is my child?  
21 That is the question. That's the reason why we went to trial  
22 because it is incorrect. It is wrong. We are missing those  
23 children. We don't know where they are. The Government knows.  
24 They have them. We don't. Certainly my clients don't know.

25 Thank you, Judge.

1 THE COURT: Thank you.

2 Alright, let me ask you, Mr. Garcia, the Government has  
3 indicated it is not opposed to a time served sentence, and  
4 certainly I am inclined to do that. The only thing I will ask  
5 you is this. I can do that, and I am inclined to do it or I  
6 can impose a sentence of one year probation.

7 Is there anything you want to add in that respect?

8 MR. GARCIA: Judge, I don't think --

9 THE COURT: The result is --

10 MR. GARCIA: Yeah --

11 THE COURT: Similar.

12 MR. GARCIA: That's a decision that is for the Court  
13 to make.

14 THE COURT: Okay.

15 MR. GARCIA: If you were to ask me what to do, that  
16 would be different. It is up to you, Judge.

17 THE COURT: Anything the Government -- any opinion the  
18 Government has on that issue?

19 MR. RENNIE: Nothing further, Your Honor. We will  
20 leave it to your discretion.

21 THE COURT: Alright, in each of the five cases and  
22 acknowledging that the Defendants have been in custody for a  
23 little bit over a month it looks like, the Court will sentence  
24 each Defendant to a sentence of one year probation. The fine  
25 is waived. I do make a finding that you lack the ability to

1 pay a fine, and I am remitting the special assessment.

2 Now, obviously, I am sure your lawyer has discussed this  
3 with you on the issue of appeal. You do have 14 days in which  
4 to appeal your sentence. It is a very strict deadline. Make  
5 sure you discuss this with your lawyer if you have any  
6 questions about that.

7 Now, before I conclude this hearing, have each of you  
8 understood everything that I discussed with you?

9 DEFENDANTS: Yes [by all].

10 THE COURT: Mr. Yanes, Ms. Zavala, and Ms. Vasquez,  
11 have you understood?

12 DEFENDANTS: Yes [by all].

13 THE COURT: Very well.

14 Well, based on what you have said here in Court and based  
15 on what your lawyer has said, I certainly understand the  
16 reasons that you have expressed for wanting to come to the  
17 United States and for wanting to come to the United States with  
18 the minor children that were with you. I understand that. I  
19 hope you know that.

20 I lament it more than you that I am in a position where I  
21 am unable to give you any information or I am not in possession  
22 of any information regarding the whereabouts or well being of  
23 your children, and I wish that was not so. I wish I could give  
24 you that information because I know you are worried about it.  
25 I can see it on your faces, and I can hear it in your voices



1 that you're concerned, and that's probably the single most  
2 important thing to you in your lives, and any of us who are  
3 blessed to be parents understand that is the single most  
4 important thing we have in our lives. I wish I could give you  
5 that information, believe me, and I hope you understand that.  
6 In any case, I do wish each one of you good luck.

7 Is there anything else from the Government?

8 MR. RENNIE: Your Honor, I just wanted to clarify. Do  
9 I understand correctly it is nonreporting probation?

10 THE COURT: Yes, of course. A term of one year  
11 nonreporting probation, and, Mr. Garcia, obviously I explained  
12 to your clients what the implications of being on probation  
13 during that one year what that means.

14 Certainly, for each one of you, if there was any kind of --  
15 the sentence I imposed, one year of probation, means your  
16 sentences of incarceration are done. There is a one year  
17 period of probation which means you have to follow certain  
18 rules.

19 The Number 1 rule really you have to follow is if within  
20 that one year period there was another offense, a federal,  
21 state or local offense that you would be coming back to this  
22 Court, and I would be re-sentencing you. That's basically what  
23 the sentence means. In terms of your sentence or in terms of  
24 your incarceration, that is done as of today.

25 I sincerely wish each of you the best of luck with

1 everything, you and your families.

2 Anything else from the parties? Anything else, sir?

3 We are in recess.

4

5

\* \* \* \* \*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATION

---

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date: December 15, 2017

/s/ Walter A. Chiriboga, Jr.

---

Walter A. Chiriboga, Jr.